

ISSUE DATE: March 15, 1996

DOCKET NO. P-421/EM-96-123

ORDER REJECTING FILING WITHOUT PREJUDICE

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Joel Jacobs
Tom Burton
Marshall Johnson
Dee Knaak
Don Storm

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Request of U S WEST
Communications, Inc. to Grandparent
CENTRON Services, Increase the Rates of
Some Customers, Terminate CENTRON,
CENTREX and Group Use Exchange and
Terminate Docket No. P-421/EM-91-1002

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PROCEDURAL HISTORY

On February 5, 1996, U S WEST Communications, Inc. (USWC) filed a proposal to “grandparent” its CENTRON Services, increase the rates paid by some of its CENTRON Customers and ultimately terminate CENTRON, CENTREX and Group Use Exchange services by April 29, 2005. The Company also sought to “terminate its previously identified intention to propose a replacement for these services with CENTREX Plus” per Docket No. P-421/EM-91-1002.

Between February 13 and February 22, 1996, the Minnesota Department of Public Service (the Department), McLeod Telemanagement, Inc. (McLeod), MFS Intelenet (MFS) and Enhanced Telemanagement, Inc. d/b/a Frontier Telemanagement, Inc. (FTI) filed comments opposing USWC’s proposed actions.

On February 23, 1996, USWC filed its response to the Department’s comments.

On March 5, 1996, the Commission met consider this matter.

FINDINGS AND CONCLUSIONS

A. USWC's Proposal

USWC's proposal consists of several elements:

- The Company intends to withdraw its entire CENTRON group of services (CENTRON, CENTRON 50 and XL and CENTREX like service) by April 29, 2005.
- The Company proposed to "grandparent" its existing customers and any potential

customers with outstanding authorized service proposals as of February 5, 1996, with service to be in place by May 5, 1996. As of February 5, 1996, CENTRON services would not be available to any new customers but would continue to be available to current customers until April 29, 2005 or until customers move to another service

- As part of its "grandparenting" plan, USWC proposed certain conditions on the movement, additions and changes to existing customers' CENTRON services.
- USWC stated that its current month to month CENTRON customers will experience rate increases at the time the Commission grants its approval and customers under contract with USWC will receive rate increases at the time of contract renewals.
- USWC stated that it is also terminating its previously identified intention to propose a replacement for these services with CENTREX Plus per Docket No. P-421/EM-91-1002.
- USWC has also stated that it will have a replacement for CENTRON in the next six (6) to nine (9) months.

In support of its proposal, the Company stated that it is concerned that CENTRON's pricing structure has significant anomalies when compared with its basic business service and feature pricing. USWC believes that these pricing anomalies are creating "uneconomic arbitrage opportunities" in the marketplace. The Company stated that the proposed nine-year time frame would give its customers adequate time to determine alternative courses of action.

B. Comments of the Parties

1. The Department

The Department noted that the Company's proposal places significant restrictions on the growth of CENTRON orders from its current customers. The Department also noted the inconsistencies of the effective dates given in the filing and questioned the appropriateness of reviewing this filing under Minn. Stat. § 237.60, subd. 2(b) (rate increase) as suggested by the Company. The Department recommended that the Commission order a hearing in this matter, pursuant to Minn. Stat. § 237.60 subd. 2(g) (service discontinuance). Finally, the Department recommended that the Commission issue an Order prohibiting USWC from grandparenting CENTRON.

2. McLeod Telemanagement, Inc.

McLeod filed its objection to the USWC proposal by filing a formal complaint. McLeod, a corporation organized under the laws of the State of Iowa, stated that it is in the final stages of preparing an application for authority to provide local telephone service (through resale of CENTRON) in the State of Minnesota. According to McLeod, USWC's proposal would restrict McLeod's ability to do business (assuming the Commission grants authority to McLeod) in Minnesota.

McLeod requested that the Commission suspend USWC's CENTRON filing and commence a hearing according to Minnesota law.

3. MFS Intelnet of Minnesota, Inc.

MFS objected that USWC's proposal would restrict the growth of authorized and currently operating CENTRON resellers. MFS also requested that the Commission suspend USWC's filing and order a hearing.

4. Frontier Telemanagement, Inc.

Like MFS, FTI stated that its main concern was about the restrictions that USWC proposed to place on CENTRON resellers. FTI requested that the Commission reject USWC's filing or in the alternative, suspend the filing and schedule the matter for hearing.

C. USWC's Response

In its reply, USWC clarified the proposed effective dates of its filing and more clearly specified which CENTRON services are affected by this filing and the impact on its current customers.

Specifically, USWC recalled that CENTREX and Group Use have been grandparented since July 20, 1979. With the present filing, USWC explained that it sought "to change certain terms and conditions of the current 1979 grandparenting order and the related price list." The present filing would also discontinue CENTREX and Group Use by the year 2005. CENTRON, CENTRON 50 and CENTRON XL will be newly grandparented by the present filing.

USWC did not agree that this filing should be reviewed pursuant to Minn. Stat. § 237.60, subd. 2(g) (service discontinuance). The Company believes that the intention of this portion of the statute is to protect current customers from losing current services. According to this interpretation, under the Company's proposal, USWC will not discontinue these services until the customer chooses an alternative service or until April 29, 2005. USWC believes reviewing this filing under Minn. Stat. § 237.60, subd. 2(b) (price increase) allows the "greatest degree of balanced protection for customers and the Company."

In conclusion, USWC requested that the Commission allow this filing to become effective per the Company's proposal.

E. Commission Analysis

The Commission finds significant flaws with USWC's multi-component filing and will reject it.

1. Review of the Price Increase Component

The Company submitted its proposal pursuant to Minn. Stat. § 237.60, subd. 2(b) which states, in part:

A company may increase the rate for a service subject to emerging competition . . . effective 30 days after notice is given to affected customers, the commission, and the department. The notice . . . must include an incremental cost study . . .

The same statute states further, in part:

An interested party may file comments on the proposed increase within 30 days of the filing. If no party objects . . . , the rate is deemed approved. If an objection is filed, the rate increase must nonetheless be deemed approved unless within 60 days . . . the commission determines that the increase is potentially contrary to the public interest. In that event, the commission shall, within 60 days . . . , order that the rate is interim in nature and subject to refund. If interim rates are not ordered, the rate increase is not refundable . . .

USWC has made it abundantly clear that the Company believes that this proposal is a price increase and should be reviewed accordingly. However, the Company did not submit the required incremental cost study nor did it make any showing that it notified affected customers of the proposed price increases as required by the statute.

The fact that USWC has not included an incremental cost study in this filing is not simply a technical failure; it puts the Commission and the opposing parties at a significant disadvantage. If the Commission were to accept the filing as is, order a hearing on this matter, and direct USWC to file an incremental cost study immediately, the time lost waiting for an acceptable cost study would place unacceptable time pressure on the regulatory process. Once a filing of this nature is accepted, the Commission must reach its decision on the merits within six months or, if this becomes a contested case before an administrative law judge, ten months. In either case, if the Commission did not make a decision within the statutory deadline, the filing becomes effective by order of law.

In short, a complete filing (incremental cost study) and proper notice to the parties are important to proper consideration of this matter and will be required.

2. Review of the Discontinuance of Service Aspect of the Filing

The Commission agrees with the Department that USWC's filing is more appropriately reviewed pursuant to Minn. Stat. § 237.60, subd. 2(g) which states, in part:

A telephone company may discontinue a telephone service . . . , as long as the discontinuance is effective for that service throughout the state, effective 60 days after notice to the commission, the department, and affected customers, unless the commission, within 45 days of the notice, orders a hearing on it. If the commission orders a hearing, the commission shall make a final determination on the discontinuance within 180 days of the date that notice of the discontinuance was filed with the commission, except if a contested case hearing before an administrative law judge is required the commission shall make a final decision within ten months of the date the notice of discontinuance was filed.

The filing is properly reviewed as a proposal to discontinue service for several reasons. First, if the Commission accepts USWC's proposal, the Company will no longer provide the service to new customers. Although the CENTREX and Group Use have already been "grandparented," the Company's present proposal will eliminate all remaining CENTRON services available to the public. Second, the revised price list submitted with the filing places these services in the price list section titled Obsolete Central Office Services. Third, the new conditions under which USWC proposes to serve its current CENTRON customers significantly alter the manner in which a customer can get additional lines.

In short, the Company has proposed to discontinue the CENTRON service as we know it today. Such a proposal is reviewable under Minn. Stat. § 237.60, subd. 2(g). Under this statute, the filing is incomplete in that the Company failed to show that it served notice on its affected customers and it is incorrect in that the proposed effective date is not 60 days from the filing date. As such, it will be rejected.

ORDER

1. The filing made by USWC on February 5, 1996 in this matter is rejected, without prejudice, for failure to comply with applicable statutory filing requirements, as specified in this Order.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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